

## § 937.843

### § 937.843 Federal enforcement.

(a) Part 843 of this chapter, *Federal Enforcement*, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) OSM will furnish a copy of each enforcement action document and order to show cause issued pursuant to this subpart to the Oregon Department of Geology and Mineral Industries.

### § 937.845 Civil penalties.

Part 845 of this chapter, *Civil Penalties*, shall apply when civil penalties are assessed for violations on surface mining and reclamation operations.

### § 937.846 Individual civil penalties.

Part 846 of this chapter, *Individual Civil Penalties*, shall apply to the assessment of individual civil penalties under section 518(f) of the Act.

[53 FR 3676, Feb. 8, 1988]

### § 937.955 Certification of blasters.

Part 955 of this chapter, *Certification of Blasters in Federal Program States and on Indian Lands*, shall apply to the training, examination and certification of blasters for surface coal mining and reclamation operations.

[51 FR 19462, May 29, 1986]

## PART 938—PENNSYLVANIA

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

## 30 CFR Ch. VII (7–1–11 Edition)

### § 938.1 Scope.

This part contains all rules applicable only within Pennsylvania that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 33079, July 30, 1982]

### § 938.10 State regulatory program approval.

The Pennsylvania state program as submitted on February 29, 1980, as amended on June 9, 1980, as resubmitted on January 25, 1982, and amended on April 9, 1982, and May 5, 1982, is conditionally approved, effective on July 31, 1982. Beginning on that date, the Department of Environmental Resources shall be deemed the regulatory authority in Pennsylvania for all surface coal mining and reclamation operations and for all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Pennsylvania permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Environmental Resources agreeing to the conditions in 30 CFR 938.11 are available at the following locations:

(a) Pennsylvania Department of Environmental Resources, Market Street State Office Building, 400 Market Street, P.O. Box 2063, Harrisburg, Pennsylvania 17101-2063; Telephone: (717) 787-4686.

(b) Office of Surface Mining Reclamation and Enforcement, Third Floor, suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

[59 FR 17930, Apr. 15, 1994]

### § 938.11 Conditions of State regulatory program approval.

The approval of the Pennsylvania state program is subject to the Commonwealth revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statutes, the regulations, the program narrative, or the Attorney General's opinion. This

section indicates, for the general guidance of the Commonwealth, the component of the program to which the Secretary recommends the change be made.

(a)–(i) [Reserved]

[47 FR 33079, July 30, 1982, as amended at 48 FR 13417, Mar. 31, 1983; 48 FR 45391, Oct. 5, 1983; 49 FR 20492, May 15, 1984; 49 FR 27319, July 3, 1984; 51 FR 18321, May 19, 1986; 66 FR 57665, Nov. 16, 2001]

**§ 938.12 State statutory, regulatory, and proposed program amendment provisions not approved.**

(a) We are not approving the following provisions or portions of provisions of the proposed program amendment that Pennsylvania submitted on July 29, 1998:

(1) Section 5.1(b) (52 P.S. 1406.5a(b)) of BMSLCA is not approved to the extent noted in 30 CFR 938.13(a)(1).

(2)–(4) [Reserved]

(5) Section 5.2(g) (52 P.S. 1406.5b(g)) of BMSLCA is not approved to the extent noted in 30 CFR 938.13(a)(2).

(6) Section 5.2(h) (52 P.S. 1406.5b(h)) of BMSLCA is not approved to the extent noted in 30 CFR 938.13(a)(3).

(7)–(10) [Reserved]

(11) Section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) of BMSLCA is not approved to the extent noted in 30 CFR 938.13(a)(4).

(12) Section 5.4(c) (52 P.S. 1406.5d(c)) of BMSLCA is not approved to the extent noted in 30 CFR 938.13(a)(5).

(13) Section 5.5(b) (52 P.S. 1406.5e(b)) of BMSLCA is not approved to the extent noted in 30 CFR 938.13(a)(6).

(b) We are not approving the following portions of provisions of the proposed program amendment that Pennsylvania submitted on November 22, 1999:

(1) Sections 25 Pa. Code 86.124(f) and 25 Pa. Code 86.125(j) are not approved to the extent that these sections would allow Pennsylvania more time to complete a final written decision on a lands unsuitable for surface mining activities petition than is allowed by the provisions of the Federal regulations at 30 CFR 764.19(b).

(c) We are not approving the following portions of provisions of the proposed program amendment that

Pennsylvania submitted on December 18, 1998:

(1) 4.2(f)(4) of PASMCRRA. We are not approving Subsection (4) to the extent that it would allow Phase 3 bond release.

(2) 4.12(b) of PASMCRRA. We are not approving Subsection (b) to the extent that it creates an alternative bonding system.

(3) 25 Pa. Code 86.281(e). The last sentence which states, “If the actual cost of reclamation by the Department exceeds the amount reserved, additional funds from the Remining Financial Assurance Fund will be used to complete reclamation” is not approved.

(4) 25 Pa. Code 87.1 and 88.1, Definition of “de minimis cost increase.” The definition is not approved as it applies to coal mining activities.

(5) 25 Pa. Code 87.119 and 88.107. With regard to coal mining activities, we are not approving Subsection (a) to the extent that it would allow the replaced water supply to be of a lesser quantity and quality than the premining water supply or does not provide for temporary replacement of water supplies. We are not approving Subsection (a)(1)(v) to the extent it would pass on operating and maintenance costs of a replacement water supply in excess of the operating and maintenance costs of the premining water supply to the landowner or water supply user. We are not approving Section (a)(2) to the extent that an operator is not required to provide for all increased operating and maintenance costs of a restored or replaced water supply. Finally, we are not approving Subsection (a)(3) to the extent it would allow a waiver from the requirements for replacing a water supply outside the requirements of 30 CFR 701.5 regarding the definition of the term, “replacement of water supply.”

(6) 25 Pa. Code 87.119(g) and 88.107(g). These sections are not approved.

(7) 25 Pa. Code 87.119(i) and 88.107(i). We are not approving Subsection (i) to the extent that it would allow Phase 3 bond release.

(d) We are not approving the word “augmented” in the last sentence of subsection 86.151(d) that we found to be less effective on April 8, 1993 (58 FR 18154).